

FREEDOM COURT REPORTING

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 SOUTHERN DIVISION
4

5 ASD SPECIALTY HEALTHCARE,)
6 INC., d/b/a ONCOLOGY)
7 SUPPLY COMPANY,)
8 Plaintiff,)

ORIGINAL

9 vs.) CASE NUMBER:
10 ONCOLOGY HEMATOLOGY) 1:05-CV-591-MEF
11 OF ATLANTA, P.C. and)
12 LLOYD G. GEDDES,)
13 Defendants.)

14
15
16 (Whereupon, the following
17 statement may be taken before Cindy Weldon,
18 Certified Shorthand Reporter, Commissioner
19 and Notary Public, at the offices of David
20 Allred, 7030 Fain Park Drive, Montgomery,
21 Alabama, on July the 27th, 2006 at 10:35
22 a.m.)
23

EXHIBIT

4

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

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A P P E A R A N C E S

FOR THE PLAINTIFF:

MR. HEATH A. FITE
3100 SOUTHTRUST TOWER
420 NORTH 20TH STREET
BIRMINGHAM, ALABAMA 35203

FOR THE DEFENDANT:

MR. DAVID ALLRED
7030 FAIN PARK DRIVE
SUITE 9
MONTGOMERY, ALABAMA 36117

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1 MR. FITE: My name is Heath Fite
2 and I'm here in an action styled ASD
3 Specialty Healthcare, Inc., doing business
4 as Oncology Supply versus Oncology and
5 Hematology Centers of Atlanta, P.C. and
6 Lloyd G. Geddes.

7 I represent the plaintiff ASD in
8 this matter. It is pending in the U.S.
9 District Court for the Middle District of
10 Alabama in the Southern Division, Civil
11 Action No. 1:05-cv-591-MEF.

12 We're here today pursuant to two
13 deposition notices that ASD issued to the
14 Defendants. The first one, which I have
15 marked as Exhibit 1, is the notice of taking
16 the deposition of Defendant Lloyd G. Geddes,
17 July 27, 2006 at 10:30 a.m.

18 The second is the notice of taking
19 Rule (30)(b)(6) deposition of Defendant
20 Oncology and Hematology Centers of Atlanta,
21 P.C. It is also set for July 27, 2006 at
22 10:30 a.m.

23 By my watch, it is about five

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1 minutes after 10:30. Neither Mr. Geddes nor
2 a corporate representative of Hematology
3 Centers of Atlanta has appeared.

4 At this time, I would reserve the
5 right to move for sanction of default
6 judgment under Rule (37)(b)(2)(c) as per the
7 terms of the Court's order entered July 12,
8 2006 ordering the Defendants to participate
9 in whatever discovery Rules 30, 31, 33, 34
10 or 36 of the Civil Rules of Procedure
11 require.

12 After entry of this order on --
13 immediately after the hearing on July 12,
14 2006, I on behalf of ASD and Mr. David
15 Allred on behalf of Dr. Geddes and Oncology
16 and Hematology Centers of Atlanta,
17 endeavored to schedule a mutually convenient
18 time to conduct these depositions.

19 On approximately the 13th, we
20 agreed that we would take them on today's
21 date, July 27, in Mr. Allred's office here
22 in Montgomery, Alabama.

23 It's my understanding that we've

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1 done everything -- that ASD had done
2 everything in its power to schedule these in
3 a mutually convenient time and location as
4 the Court's order of July 12 requires.

5 And again, we would raise -- We
6 want to reserve our right to move for
7 sanction of default judgment against both
8 Defendants under Rule (37)(b)(2)(c) as well
9 as reserving our right to pursue the other
10 remedies for discovery violations under Rule
11 7, given that there is an existing order to
12 Dr. Geddes and Oncology and Hematology
13 Centers of Atlanta to comply with all
14 discovery.

15 I further note that
16 interrogatories were served on Dr. Geddes
17 and Defendant Oncology and Hematology
18 Centers of Atlanta, P.C. on approximately
19 March 13, 2006.

20 But as of today's date, I've still
21 received no response at all to these
22 interrogatories, which I'm marking as
23 Plaintiff's Exhibit 3.

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1 And we would reserve our right to
2 seek all of the sanctions available to us
3 under Rule 37 for the Defendants' failure to
4 provide responses to our interrogatories.
5 At this time, that's all.

6 MR. ALLRED: I'm David Allred.
7 I'm here for Lloyd G. Geddes, an individual,
8 and Oncology and Hematology Centers of
9 Atlanta, P.C. for whom I have filed a notice
10 of appearance earlier in the case.

11 In response to Judge Fuller's
12 order issued on July the 12th, I did confer
13 with Plaintiff's counsel to work out a date
14 for the deposition of the Defendants, which
15 date was July the 27th.

16 And on July the 12th, I sent a
17 copy of Judge Fuller's minute entry to Dr.
18 Geddes at the address that I have for him.
19 And on July 14th, I sent Dr. Geddes and
20 Oncology and Hematology Centers of Atlanta,
21 P.C. a copy of the notice of deposition.

22 The July 12th letter was sent to
23 OHCA and Dr. Geddes as well. I have not

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1 received any response from Dr. Geddes or
2 OHCA. I have tried to call Dr. Geddes and I
3 have not been able to reach him.

4 I've left messages for him to
5 return my calls. I also sent a letter as
6 late as July 25th, 2006 to Dr. Geddes,
7 again, reminding him about the urgency to
8 contact me about the deposition and about
9 the case.

10 I sent draft responses to Dr.
11 Geddes on April the 12th, 2006, with a
12 request for Dr. Geddes to review them and
13 sign them and send them back. I have not
14 received those. I did send him some
15 follow-up correspondence on it.

16 Since I am at this time still
17 counsel of record for Dr. Geddes and OHCA
18 and have not been permitted to withdraw by
19 the Court, I would resist any motion for
20 adverse action against either of those
21 Defendants. And I do plan to refile my
22 motion to withdraw.
23

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C E R T I F I C A T E

STATE OF ALABAMA)
MONTGOMERY COUNTY)

I hereby certify that the above
and foregoing statement was taken down by me
in stenotype, and the questions and answers
thereto were transcribed by means of
computer-aided transcription, and that the
foregoing represents a true and correct
transcript of the testimony given by said
witness upon said hearing.

I further certify that I am
neither of counsel, nor of kin to the
parties to the action, nor am I in any wise
interested in the result of said cause.

CINDY WELDON

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